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| MESSER LOGGING, INC., |) | AGBCA No. 2005-145-1 |
| |) | |
| Appellant |) | |
| |) | |
| Representing the Appellant: |) | |
| |) | |
| Tim Messer, <u>pro se</u> |) | |
| Messer Logging Inc. |) | |
| 32111 Rockhill Lane |) | |
| Auberry, California 93602 |) | |
| |) | |
| Representing the Government: |) | |
| |) | |
| Sarah M. Birkeland, Esquire |) | |
| Office of the General Counsel |) | |
| U.S. Department of Agriculture |) | |
| 33 New Montgomery, 17 th Floor |) | |
| San Francisco, California 94105 |) | |

DECISION OF THE BOARD OF CONTRACT APPEALS

December 13, 2005

Before POLLACK, VERGILIO, and STEEL, Administrative Judges.¹

Opinion by Administrative Judge POLLACK.

This appeal, filed by letter dated April 25, 2005, arises out of Contract No. 50-9A40-4-1P02, Gags 10%, between Messer Logging, Inc. (Messer or Appellant), of Auberry, California and the U.S. Department of Agriculture, Forest Service (FS), Southern Sierra Province, Clovis, California. In the appeal, Messer claimed additional costs due to an alleged late award of the contract by the FS. The Board has jurisdiction over this timely-filed appeal pursuant to the Contract Disputes Act (CDA), 41 U.S.C. §§ 601-613, as amended.

The appeal was docketed by letter of May 5, 2005, and at that time, Appellant was afforded 30 days from receipt of the docketing notice to file its Complaint. No Complaint was received. The Board thereafter attempted to contact Appellant by telephone. On June 21, 2005, Appellant was reached

¹ Administrative Judge Steel of the Interior Board of Contract Appeals, sits by designation.

and informed the Board that it would be faxing a request for extension of time to the Board. No request for extension was thereafter received. Accordingly, the Board issued another letter, dated July 12, 2005, which again afforded Appellant an additional 14 days to file the Complaint. The letter stated that if no Complaint was received, the Board would issue an Order to Show Cause. Appellant again did not respond to the Board letter. On July 27, 2005, the Board issued an Order to Show Cause which gave Appellant 30 days to show cause why the appeal should not be dismissed for failure to prosecute. The Order was signed for on August 2, 2005, by a party identifying himself as agent for Appellant. Again, Appellant did not provide a response to the Board Order.

DECISION

The Board has given the Appellant ample opportunity to pursue its appeal. Appellant has chosen not to proceed and not to comply with Board directions. Accordingly, the Board finds a failure to prosecute and as such, dismisses the appeal with prejudice.

HOWARD A. POLLACK

Administrative Judge

Concurring:

JOSEPH A. VERGILIO

Administrative Judge

CANDIDA STEEL

Administrative Judge

**Issued at Washington, D. C.
December 13, 2005**